



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Robert B. Hammett--Reconsideration

File: B-253720.2; B-253721.2

Date: August 3, 1993

Robert B. Hammett for the protester.
Catherine M. Evans, Esq., and John M. Melody, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Protest properly was dismissed as untimely where it was based on rejection letter from agency that was received more than 10 working days before protest was filed; assertion that the protest was timely based on subsequent correspondence does not warrant reconsidering matter where it is clear that protest in fact was based on rejection letter.

DECISION

Robert B. Hammett requests reconsideration of our June 14, 1993, decision dismissing his protest of the Department of the Energy's (DOE) rejection of his unsolicited proposals, Nos. P9200050 and P9200098, for engines.

We deny the request.

As background, Mr. Hammett submitted his unsolicited proposals for a new type of engine to DOE in 1992. On April 5, 1993, the agency wrote a letter to Mr. Hammett informing him that it was unable to consider the proposals because the National Institute of Standards and Technology (NIST), not DOE, is the appropriate organization for evaluation of engines. According to a handwritten notation on the letter, Mr. Hammett received it on May 10. Mr. Hammett protested the agency's decision to our Office on June 9, essentially alleging that DOE improperly declined to evaluate his proposals; the protest included a copy of the April 5 rejection letter. We dismissed the protest as untimely, since it was filed more than 10 working days after Mr. Hammett received notice of the rejection. See Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1993).

In his reconsideration request, Mr. Hammett contends that our decision is in error because his protest was not based on the April 5 letter.¹ Instead, Mr. Hammett asserts, it was based on the failure of DOE or NIST to respond to requests he forwarded to them on May 14 and 15. Mr. Hammett has furnished copies of the May 14 and 15 letters in support of his position.

Mr. Hammett has not provided us with a basis to reconsider the matter. Notwithstanding the additional information submitted with the reconsideration request, Mr. Hammett's protest letter clearly stated that the protest was against DOE's rejection of his proposals, and referred to the contents of the April 5 rejection letter. The protest letter did not include the subsequent correspondence and we find nothing in that correspondence that was necessary for Mr. Hammett to raise his protest. In any case, even if Mr. Hammett's protest letter had referred to this subsequent correspondence, and included a protest against the failure of DOE and NIST to respond to his letters, it is clear that Mr. Hammett's initial basis for protest--that DOE improperly declined to evaluate his unsolicited proposals--first arose upon his receipt of the April 5 rejection letter from DOE. Our conclusion that the protest was untimely because it was filed more than 10 working days after the April 5 letter was received therefore was correct. Mr. Hammett's continued pursuit of the matter with DOE and NIST did not extend his time for filing a protest in our Office. See Allied-Signal, Inc.--Recon., B-243555.2, July 3, 1991, 91-2 CPD ¶ 19.

As Mr. Hammett has not established that our decision contained any errors of fact or law, or presented new information that warrants its reversal or modification, the request for reconsideration is denied. See R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

Ronald Berger

Ronald Berger
Associate General Counsel

¹In his reconsideration request, Mr. Hammett refers to this letter as the "April 26 letter." We assume Mr. Hammett is referring to the letter dated April 5 based on his description of the letter, and because there are no documents in the record dated April 26.